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KANESAKA BERNER AND PARTNERS LLP			HANCE, ROBERT J	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/565,983	NAKAMURA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	ROBERT HANCE	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 September 2008.
- 2a) This action is **FINAL**.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11, 13, 14 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11, 13, 14 and 19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 September 2008 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-11, 13-14 and 19 have been considered but are moot in view of the new ground(s) of rejection.
  
2. The well-known in the art statements applied to claims 4, 10 and 13 are taken to be admitted prior art due to applicant's failure to traverse Examiner's assertion of official notice.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
  
2. Claims 1-5, 8, 10-11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berkson et al., US Pub No 2002/0148424 in view of Zhu et al., US Pub no 2004/0196975 in view of Applicant's Admitted Prior Art (AAPA) and further in view of Nelson et al., US Pub No 2002/0009137.

**As to claim 1** Berkson discloses a moving image distribution system for distributing a prespecified moving image to a user terminal connected to the system via a network (Abstract), said system comprising:

a moving image distributing unit for distributing to the user terminal the CM file data in response to a request for reproduction from the user terminal previously storing therein the other divided moving image file (Abstract; Paragraphs 12, 44 and 56; Fig. 4 - a user requests to view encrypted media content, and if the advertisement contained therein has expired, the user must download and view the updated advertisement. The video cannot be reproduced without the advertisement, therefore the video previously stored on the user equipment is divided); and

a reproducing unit for decrypting the encrypted moving image file distributed to the user terminal and reproducing the decrypted files (Paragraphs 12, 44; Fig. 4 – video is first encrypted, and then later decrypted after the viewer has viewed the advertisement attached thereto).

Berkson fails to disclose an encrypting unit for encrypting one of the divided moving image files by CM file data including a prespecified CM element incorporated therein.

However, in an analogous art, Zhu discloses an encrypting unit for encrypting an enhancement layer of a video by the data contained within the base layer (Paragraphs 21-22; claims 1, 27-29).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Berkson with the teachings of Zhu. The motivation

for this modification would have been to provide scalable encryption of scalable multimedia (see Zhu Paragraphs 21-22).

The combined system of Berkson and Zhu fail to disclose a moving image dividing unit for dividing said moving image into two not-reproducible moving image files along the time axis; distributing a moving image file in response to a request for reproduction from the user terminal.

However, AAPA discloses a moving image dividing unit for dividing said moving image into two not-reproducible moving image files along the time axis and distributing a moving image file in response to a request for reproduction from the user terminal (AAPA Page 2 Paragraphs 6-8).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combined system of Berkson and Zhu with the teachings of AAPA by dividing the video into two parts, and distributing the second part to the user in response to a request for reproduction. The motivation for this modification would have been to enable the user to view the video smoothly like a downloaded file, but in a streaming environment (AAPA Paragraphs 6-8).

The combined system of Berkson, Zhu and AAPA fail to disclose encrypting the video using data contained in the advertisement and that the moving image file is decrypted by using the CM file data.

However, in an analogous art, Nelson discloses video using layered coding (base layer and enhancement layer) that contains advertisements (Paragraphs 47 and 132).

In the combined system of Berkson, Zhu, AAPA and Nelson, the base layer and enhancement layers contain advertisement data, and the enhancement layer is encrypted using data from the base layer, therefore the video is encrypted and decrypted by CM data. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combined system of Berkson, Zhu and AAPA with the teachings of Nelson by including advertisements in video for the advantage of earning revenue from advertisers.

**As to claim 2** the combined system of Berkson, Zhu, AAPA and Nelson, as applied to claim 1 above, disclose a moving image distribution system for distributing a prespecified moving image to a user terminal connected to the system via a network (Berkson Abstract),

said system having a service provider server comprising a moving image dividing unit for dividing said moving image into two not-reproducible moving image files including a main moving image file and a slave moving image file along a time axis (AAPA Paragraphs 6-8); a main moving image file storing section for storing therein said main moving image file (Berkson Fig. 2: 22); a slave moving image file storing section for storing therein said slave moving image file (AAPA discloses dividing the image, and in the combined system of Berkson, Zhu, AAPA and Nelson, the slave moving image file is stored on the server); a CM file storing section for storing therein a CM file including a prespecified CM element incorporated therein (Berkson Fig. 2: 23); and an encrypting unit for encrypting either one of said main moving image file and said

slave moving image file by CM file data (Berkson Fig. 2: 27; Paragraphs 12 and 44; Fig. 4; AAPA Paragraphs 6-8; Zhu claims 1, 27-29; Nelson Paragraphs 47 and 132 - image files are encrypted by on CM data),

wherein said service provider server receives a demand for distributing said moving image from said user terminal, summons said main moving image file corresponding to said moving image from said main moving image file storing section, and distributes said main moving image file to the user terminal (Berkson Fig. 2; Fig. 4),

said service provider server receives a demand for reproducing said main moving image file from said user terminal (Berkson Fig. 2: 21; Fig. 4: 50), summons said slave moving image file corresponding to said main moving image file (AAPA Paragraphs 6-8), and said CM file (Berkson Fig. 4: 50; Fig. 2: 23) from said slave moving image file storing section (AAPA – Paragraphs 6-8 – the file is divided, therefore it must be stored on the server) and said CM file storing section (Berkson Fig. 2: 23), encrypts said slave moving image file by said CM file data (Zhu, Nelson – video is encrypted using data contained in the advertisement; see rejection of claim 1), and distributes the encrypted slave moving image file to said user terminal together with said CM file (Berkson Figs. 2 and 4; AAPA Paragraphs 6-8), and

said user terminal decrypts two of said distributed moving image files and said CM file with a prespecified reproducing unit and reproduces said moving image files (Berkson Paragraph 44; Zhu claims 1, 27-29; Nelson Paragraphs 47 and 132 – encrypted video and advertisements are decrypted).

**As to claim 3,** the combined system of Berkson, Zhu, AAPA and Nelson, as applied to claim 1 above, disclose a moving image distribution system for distributing a prespecified moving image to a user terminal connected to the system via a network (Berkson Abstract) said system comprising:

a moving image contents provider server having said moving image (Berkson Fig. 2; Fig. 5a: 52),

a sponsor server having a CM file with a prespecified advertisement element therein (Berkson Fig. 3: 33; Paragraph 50), and

a service provider server having a moving image dividing unit for dividing said moving image into two not-reproducible moving image files, including a main moving image file and a slave moving image file along a time axis (AAPA Paragraphs 6-8),

said moving image contents provider server having a main moving image file storing section for storing the main moving image file obtained after division by said moving image dividing unit (Berkson Fig. 2: 22),

said service provider server having a slave moving image file storing section for storing therein the slave moving image file obtained after division by said moving image dividing unit (AAPA discloses dividing the image, and in the combined system of Berkson, Zhu, AAPA and Nelson, the slave moving image file is stored on the server), an encrypting unit for encrypting either one of said main moving image file and said slave moving image file by CM file data (Berkson Fig. 2: 27; Paragraphs 12 and 44; Fig. 4; AAPA Paragraphs 6-8; Zhu claims 1, 27-29; Nelson Paragraphs 47 and 132 - image

files are encrypted by on CM data), and a CM file storing section for storing therein said CM moving image distributed from the sponsor server (Berkson Fig. 2: 23),

wherein said moving image contents provider server receives a demand for transmitting said moving image from said user terminal, summons said main moving image file corresponding to said moving image from said main moving image file storing section, and distributes said main moving image file to said user terminal (Berkson Fig. 2; Fig. 4),

said service provider server receives a demand for reproducing said main moving image file from said user terminal (Berkson Fig. 2: 21; Fig. 4: 50) and summons said slave moving image file corresponding to said main moving image file (AAPA Paragraphs 6-8) and said CM file (Berkson Fig. 4: 50; Fig. 2: 23) from said slave moving image file storing section of said service provider server and said CM file storing section (AAPA – Paragraphs 6-8 – the file is divided, therefore it must be stored on the server), and said service provider further encrypts said slave moving image file through said encrypting unit by the CM file data (Zhu, Nelson – video is encrypted using data contained in the advertisement; see rejection of claim 1), and distributes the encrypted slave moving image file to said user terminal together with said CM file (Berkson Figs. 2 and 4; AAPA Paragraphs 6-8), and

said user terminal decrypts two of the distributed moving image files and said CM file by a prespecified reproducing unit and reproduces said moving image files (Berkson Paragraph 44; Zhu claims 1, 27-29; Nelson Paragraphs 47 and 132 – encrypted video and advertisements are decrypted).

**As to claim 4** the combined system of Berkson, Zhu, AAPA and Nelson fail to disclose the moving image distribution system according to claim 1, wherein said moving image dividing unit compresses data for the moving image file so that a total of file capacities of the two moving image files is smaller than a file capacity for the moving image. However, examiner takes official notice of the fact that compressing a moving image file before distribution over a network is a method that was commonly known in the art at the time of the invention. It would have been obvious to one of ordinary skill in the art at the time of the invention to compress the divided moving image files. The rationale for this combination would have been to decrease file size in order to increase transmission speed.

The combined system of Berkson, Zhu, AAPA and Nelson fail to disclose that said moving image dividing unit divides the moving image so that a file capacity of said main moving image file is larger than that of said slave moving image file. However, in light of the teachings of Berkson et al. it would have been obvious to one of ordinary skill in the art to divide the moving image file such that the main image file is larger than the slave image file. In this manner, when a user requests to view the video and must download the slave image file along with the advertisement, the amount of time the user would have to wait in order to view the video file would be greatly decreased. Just as Berkson et al. disclose that the user must download an advertisement (which would be a short, fast download), it would have been apparent to one of skill in the art that it

would be optimal to have the slave video file be as small as possible while still maintaining the security advantage of AAPA.

**As to claim 5** the combined system of Berkson, Zhu, AAPA and Nelson disclose the moving image distribution system according to claim 1, wherein said encrypting unit computes an exclusive logical sum of a data bit array for said CM file and a data bit array for said divided moving image file and encrypts for encrypting said moving image file (Zhu claims 1, 27-29 – video is encrypted by XORing data from the base layer and enhancement layer, both of which contain advertisement data (Paragraphs 47 and 132)).

**As to claim 8** the combined system of Berkson, Zhu, AAPA and Nelson disclose the moving image distribution system according to claim 1, wherein said reproducing unit comprises a decoder for decoding said main moving image file to said reproducible moving image (Berkson Paragraph 44 – encryption is used, therefore the reproducing unit must decode the video file); and a decrypting unit for decrypting said encrypted moving image files together with the CM file again by executing the exclusive logical sum processing (Zhu claims 1, 27-29);

    said reproducing unit decrypts said CM file and said moving image files by said decrypting unit after checking that the said CM file has been reproduced, and starts up said decoder to decode said main moving image file and said slave moving image file to said reproducible moving image (Berkson Paragraphs 12 and 44; Fig. 4).

**As to claim 10** the combined system of Berkson, Zhu, AAPA and Nelson fail to disclose the moving image distribution system according to claim 8, wherein said reproducing unit further comprises a user information storing section for storing therein user information concerning said user, and distributes said user information to said user information storing section in said service provider server in response to a demand from an user certifying engine.

However, examiner takes official notice of the fact that storing user information on a client device, and distributing this information to a server in response to a certification request, were well known in the art at the time of the invention. Remembering usernames and passwords and thus allowing a user to quickly access material without having to enter his/her information was and is a commonly known technique.

It would have been obvious to one of ordinary skill in the art to modify the teachings of Berkson et al. as modified to include automatic user information transmittal. The rationale for this modification would have been to allow a user to more quickly and conveniently access material by removing the need to continually enter a username and password.

**As to claim 11** the combined system of Berkson, Zhu, AAPA and Nelson, as applied to claim 1 above, disclose a computer-readable medium having a moving image distribution program for a moving image distribution system to distribute a prespecified

moving image to a user terminal via a network (Berkson Abstract, claim 32), said program comprising:

a moving image dividing step of dividing said moving image into two non-reproducible moving image files along the time axis (AAPA Paragraphs 6-8);  
an encrypting step of encrypting one of said divided two moving image files by CM file data including a prespecified CM element incorporated therein (Berkson Fig. 2: 27; Paragraphs 12 and 44; Fig. 4);

a moving image distributing step of distributing, in response to a demand for reproduction from said user terminal previously storing therein the other of the moving image files, or the one of said moving image files with said CM file to said user terminal (Berkson Fig. 2; Fig. 4),

a decrypting reproducing step for decrypting said two moving image files distributed to said user terminal by said CM file data (Berkson Paragraph 44; Zhu claims 1, 27-29; Nelson Paragraphs 47 and 132 – encrypted video and advertisements are decrypted), and

a reproducing step for reproducing said decrypted two moving image files (Berkson Paragraphs 12, 44; Fig. 4 – video reproduced after the viewer has viewed the advertisement attached thereto).

**As to claim 19** see similar rejection to claim 11.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berkson, Zhu, AAPA and Nelson as applied to claim 1 above, and further in view of Hitson et al., US Pub No 2002/0010759.

**As to claim 6** the combined system of Berkson, Zhu, AAPA and Nelson fail to disclose the moving image distribution system according to claim 1, further comprising: a user information storing section for storing therein various types of user information concerning users including service providers users, moving image contents providers, and sponsors; and a user certifying engine for certifying access to said service provider server based on said user information, wherein said moving image dividing unit acknowledges a demand for dividing said moving image only when a user is authenticated as the service provider or the moving image contents provider by said user certifying engine.

However, in an analogous art, Hitson et al. disclose a server having stored thereon multimedia content which can be accessed and edited by administrators, users, advertisers and content providers. It would have been obvious to one of ordinary skill in the art at the time of the invention that access to this material should be password protected, and access should be given only to authenticated users, in order to prevent malicious activity. It would have been obvious to one of ordinary skill in the art to modify the teachings of Berkson et al. as modified with the teachings of Hitson et al. The rationale for this modification would have been to allow content providers, advertisers,

etc., to access the content stored on the server, in order to allow for greater flexibility in what content is provided to users.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berkson, Zhu, AAPA and Nelson as applied to claim 2 above, and further in view of Okayama et al., US Pub No 2002/0053090.

**As to claim 7** the combined system of Berkson, Zhu, AAPA and Nelson fail to disclose the moving image distribution system according to claim 2, wherein said service provider server furthermore comprises a CM file summoning unit for summoning said CM file from said CM file storing section based on said user information, and said CM file summoning unit selects a CM file demanded by the user from the CM file storing section based on the user information and provides the CM file to said encrypting unit.

However, in an analogous art, Okayama et al. disclose distributing targeted advertisement to viewers, where the targeting is based on viewer profiles stored within a server (Paragraph 321). It would have been obvious to one of ordinary skill in the art to modify the teachings of Berkson et al. as modified with the teachings of Okayama et al. The rationale for this modification would have been to present viewers with advertising that more closely matches their profiles, thus increasing the impact of the advertisements.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berkson, Zhu, AAPA and Nelson as applied to claim 8 above, and further in view of Teng et al., US Patent No 6,094,679.

**As to claim 9** the combined system of Berkson, Zhu, AAPA and Nelson fail to disclose the moving image distribution system according to claim 8, wherein said service provider server comprises a reproducing unit storing section for storing therein said reproducing unit, and executes a processing procedure comprising a searching step of searching, when a demand for reproduction of said main moving image file is received from said user terminal, whether said reproducing unit is present on said user terminal or not, and said reproducing unit is distributed to said user terminal when it is determined in the searching step that there is no reproducing unit on said user terminal.

However, in an analogous art, Teng et al. disclose an updating service which polls client devices to determine whether or not their software is up to date, and automatically distributes updated software to clients that need it (col. 2 lines 4-20).

It would have been obvious to one of ordinary skill in the art to modify the teachings of Berkson et al. as modified with the teachings of Teng et al. The rationale for this modification would have been to ensure that the client possesses the proper reproduction software needed to view the video file.

6. Claims 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berkson, Zhu, AAPA, Nelson and Shintani et al., US Pub No 2002/0124249.

**As to claim 13** the combined system of Berkson, Zhu, AAPA and Nelson disclose a moving image distribution system for distributing a prespecified moving image to a user terminal connected to the system via a network, said system comprising (Berkson Abstract):

a service provider server, wherein said service provider server comprises:  
a moving image dividing unit for dividing a moving image distributed from a moving image contents provider into two not-reproducible moving image files, including a main moving image file and a slave moving image file along a time axis (AAPA Paragraphs 6-8),

an encrypting unit for encrypting either one of the divided moving image files by said moving image dividing unit by CM file data (Berkson Fig. 2: 27; Paragraphs 12 and 44; Fig. 4; AAPA Paragraphs 6-8; Zhu claims 1, 27-29; Nelson Paragraphs 47 and 132 - image files are encrypted by on CM data), and

a moving image distributing unit for distributing either one of the encrypted moving image files to said user terminal together with said CM file (Berkson Abstract; Paragraphs 12, 44 and 56; Fig. 4),

wherein said service provider server distributes said moving image file with said CM file to said user terminal (Berkson Abstract; Paragraphs 12, 44 and 56; Fig. 4).

The combined system of Berkson, Zhu, AAPA and Nelson fail to disclose that the CM is distributed from a sponsor. However, examiner takes official notice of the fact

that advertisements distributed from a sponsor were well known in the art at the time of the invention.

It would have been obvious to one of ordinary skill in the art at the time of the invention to receive advertisements from a sponsor. The rationale for this would have been to allow sponsors to distribute their advertisements to the server.

The combined system of Berkson, Zhu, AAPA and Nelson fail to disclose that said service provider server also presents a CM advertisement fee associated with distribution of said moving image file to said sponsor. However, in an analogous art, Shintani et al. disclose billing a sponsor based on the number of times an advertisement is provided to users (Paragraph 12).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Berkson et al. as modified with the teachings of Shintani et al. The rationale for this combination would have been to only charge advertisers for advertisements that are actually viewed by users, and thus making advertising more attractive to potential sponsors.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berkson, Zhu, AAPA, Nelson and Heckel, US Patent No 6,036,601.

**As to claim 14** combined system of Berkson, Zhu, AAPA and Nelson a moving image distribution system for distributing a prespecified moving image to a user terminal connected to the system via a network (Berkson Abstract), said system comprising:

a moving image contents provider server storing therein said moving image  
(Berkson Fig. 2: 22);

a sponsor server storing therein a CM file with a prespecified advertisement  
element therein (Berkson Fig. 3: 33; Paragraph 50); and

a service provider server having: a moving image dividing unit for dividing said  
moving image into two not-reproducible moving image files, including a main moving  
image file and a slave moving image file along a time axis (AAPA Paragraphs 6-8); and  
an encrypting unit for encrypting either one of the divided moving image files by said  
moving image dividing unit by CM file data (Berkson Fig. 2: 27; Paragraphs 12 and 44;  
Fig. 4; AAPA Paragraphs 6-8; Zhu claims 1, 27-29; Nelson Paragraphs 47 and 132 -  
image files are encrypted by on CM data); and a moving image distributing unit for  
distributing said either one of the encrypted moving image files to said user terminal  
together with said CM file (Berkson Abstract; Paragraphs 12, 44 and 56; Fig. 4),

The combined system of Berkson, Zhu, AAPA and Nelson fail to disclose  
wherein said service provider server further comprises a CM management engine  
including: a counting section for counting number of times of distribution of either one or  
both of said main and slave moving image files; a CM distribution managing section for  
managing log data for distribution of said CM file distributed together with said moving  
image file; and a CM information preparing section for computing distribution  
information for said CM file according to the number of times of distribution of said CM  
file and the distribution log data; and said counting section counts the number of times  
of distribution of said distributed moving image contents in response to a demand for

distribution from said user terminal; said CM information preparing section summons the number of times of counting from said counting section, and said distribution data from said CM distribution managing section at the same time, and prepares CM distribution information from said number of times of counting and the distribution data and notifies said moving image contents provider and/or said sponsor server of said CM distribution information.

However, in an analogous art, Heckel discloses counting and logging the number of times an advertisement is viewed, and downloading these statistics to an advertiser (col. 3 lines 4-16; col. 5 lines 14-17). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Berkson et al. as modified with the teachings of Heckel. The rationale for this combination would have been to present an advertiser with an accurate summary of advertisement viewing statistics, and to bill advertisers based on this information.

The combined system of Berkson, Zhu, AAPA and Nelson fail to disclose that the CM is distributed from a sponsor. However, examiner takes official notice of the fact that advertisements distributed from a sponsor were well known in the art at the time of the invention.

It would have been obvious to one of ordinary skill in the art at the time of the invention to receive advertisements from a sponsor. The rationale for this would have been to allow sponsors to distribute their advertisements to the server.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT HANCE whose telephone number is (571)270-5319. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/  
Supervisory Patent Examiner, Art Unit 2421

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